

[Sh. Saifuddin Choudhary]

2. Government has long been assuring Parliament and the country that the policy of freight equalisation will be phased out. Many expert committees including B.D. Pande Committee in its report in 1980 also gave the same opinion as this policy was not applied fairly in all parts of the country and led to the growth of regional imbalance in the country.

[Translation]

SHRI HARISH RAWAT (Almora): Mr. Deputy Speaker, Sir, the Hilly Development Council constituted for the execution of developmental works in hilly areas has proved ineffective. There is a widespread resentment in these border areas on the defective execution of developmental works in absence of an organisation with an effective representation. The people of this area have been demanding an elected Development Council for them on the analogy of Gorkha Development Council.

During the last 3 years, the work of rural electrification in Uttar Pradesh has slowed down to a great extent. A feeling of hitch on the part of Electrification Corporation in the matter of advancing loans and assistance to the State for that purpose is the prime reason. It is adversely affecting the progress of agriculture and rural industries in the State

Therefore, there should be discussion on these matters in the House.

SHRI RAMASHRAY PRASAD SINGH (Jahanabad): Mr. Deputy Speaker, Sir, the population of India is more than 72 crore. Of nine million people are unemployed. Due to this, situation of unemployment, communalism, extremism and terrorism have been gaining ground in this country, which is creating a feeling of insecurity among the poor citizens. Incidents of killings are also rapidly increasing in the country. The unemployed youth are lead astray. An extremist organisation is also coming up in the country which has sent a wave of anxiety among the farmers and labour in rural areas. It is only be-

cause of unemployment. Moreover, with the implementation of the 20 point programme, the people have been going down the poverty line instead of coming up above it. These people do not receive the amount of grant allocated to them. A large chunk of the amount is lost in transit. I, therefore, urge upon the Government to stop all this at the earliest and impose a ban on such political parties which have been indulging in promoting communalism.

[English]

THE MINISTER OF PARLIAMEN-  
TARY AFFAIRS AND MINISTER OF IN-  
FORMATION AND BROADCASTING  
(SHRI H.K.L. BHAGAT): I shall bring the  
observations of the hon. Members to the  
notice of the Business Advisory Committee.

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12.04 hrs.

BANKING, PUBLIC FINANCIAL INSTITU-  
TIONS AND NEGOTIABLE INSTRU-  
MENTS LAWS (AMENDMENT) BILL—  
*Contd.*

[English]

MR. DEPUTY SPEAKER: The House, will now take up further consideration of the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Bill. Shri S.B. Chavan to continue.

THE MINISTER OF FINANCE (SHRI S.B. CHAVAN). Mr. Deputy Speaker, Sir, I had started my speech yesterday and I was on the point of provisions about bouncing of cheques and the provisions made thereon. Some of the hon. Members had expressed a view that this is a very abnormal provision that we are trying to introduce—rather a very dangerous provision—wherein a kind of civil liability is supposed to be converted into a kind of criminal act which, in fact, will have far-reaching consequences.

I would like to bring to the notice of the hon. Members the report of the Committee on Banking Laws by Dr. Rajamannar. He was the Chairman of this Committee. He retired as Chief Justice of the Tamil Nadu High Court. This was submitted in 1975.

On page 162 of this Report, a large number of suggestions had been given by them, and I quote:

"Under this category, we consider the following specific items:

- i) penalising issue of cheque without sufficient funds;
- ii) penal consequences for countermand of payment;
- iii) setting up of a bureau to furnish information about bouncing of cheques;
- iv) making it compulsory to effect payment above a certain amount only by crossed cheque or draft..."

Further:

"Practically in all the countries of the world, the dishonour of a cheque for insufficiency of funds available to the credit of the drawer may give rise to penal consequences. Differences exist only with regard to attendant circumstances to be established before the penal consequences are brought home to drawer."

There was a common law which was changed in U.K., and similar provision was brought about in U.K. In USA also, a similar provision has been brought about. I have also the information about other countries, Belgium, Portugal, Argentina etc. These are different countries where if the cheque is drawn without sufficient money in the bank account, it has to be considered as a kind of criminal offence and similar provisions have been made there.

So, there is nothing new. In fact, the whole purpose of bringing about this provision is to make the drawing of cheque a regular mode of payment. Unfortunately, today if a cheque is drawn and given to a party, they will not consider it sufficient means of payment, they will insist that unless the cheque is encashed, they will not take that as a kind of payment made. The only point against which we have to provide safeguard about the honest persons is that they should not be harassed. For that, if the hon. Members care to go through the section, I am sure they will be more than convinced that it provides 4-5 safeguards. These are, i) the cheque in question should have been issued in discharge of a liability—a cheque given in gift will not fall in this framework; ii) the cheque in question should be presented timely, that is, within six months or its specific validity period whichever is earlier; iii) the payee or holder in due course should give notice demanding payment within fifteen days of his receiving information of dishonour, which should be for no other reason than insufficiency of funds; iv) the drawer can make payment within 15 days of the receipt of the notice and only if he fails to do so, prosecution can take place; v) the complaint can be made only by payee/holder in due course; the complaint is to be made within one month of the cause of action arising and vi) no court inferior to that of Metropolitan Magistrate or Judicial Magistrate of first class will try the offence.

These are the different safeguards which we have already provided in order to see that if honest people, by any mistake, come under the purview of this Section, they should not be harassed. But in spite of time for payment and all other provisions that are made, if the party is not able to make good the amount of money which he owes to a particular party and in spite of the notice also he does not act, the conclusion is inescapable that he will be prosecuted, legal action will have to be taken. It is for the court to take a decision, whether he imprisoned for one year, or double the amount that would be paid as fine or both things will have to be taken together. Ultimately, it is for the court

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to take a decision. But these are the provisions which have been provided for so that the parties drawing the cheques are careful enough to see that there are enough resources available in their bank account and if a cheque is drawn, it will not be returned.

Sir, the next point was about the exchange of soiled notes. I was told that some soiled notes which, in fact, were double-punched were presented to the Reserve Bank, Bhubaneswar and that the amount was paid. When a soiled note is double-punched, the note has to be destroyed. Thereafter, it cannot be presented to the Bank. The Reserve Bank officers who are in fact responsible for accepting the soiled notes and for paying the money, would be liable for penal action. The CBI is making an inquiry into the matter and I can assure the House that we do not propose to spare anyone and we will certainly take very serious action against those who are supposed to be involved in this kind of a transaction.

One of the hon. members mentioned something very serious on the floor of the House. Yesterday, he has mentioned that some tribals who owed some money to a bank were arrested. I would like to get more details from him and when we get the details, I assure the House that I will certainly take very serious action against those officers who are responsible for this. In fact, there is no provision under which one can possibly arrest those tribals and harass them in that manner. They are only trying to take undue advantage of the illiteracy of the people concerned. That is why, we will have to take action against those officers.

Sir, I am just referring to certain general points because I will not be able to clarify all the points made here. A very valid point was made by some hon. members with regard to the bank branch expansion policy. It was stated that there were about 400 blocks wherein there was hardly any branch available at a distance of even 80 KM. or so. In fact, I have discussed this matter with my

officers only this morning. I will discuss it with the Reserve Bank of India and request them to issue instructions that no new licence should be given by the Reserve Bank unless it is in a deficient area. They have to serve the deficient areas first. In fact, the very concept of a service area is that the banking service should be made available to a population of 16,000 or 17,000 within a distance of about 10 KM. If some undesirable officer who is not committed to the theory of helping the poor may create some problems it becomes rather difficult and the necessity of having another branch located in that area becomes inescapable. Knowing this point also full well, at least a beginning will have to be made to see that branches are provided in those blocks so that the people there might avail of the facilities. Some times, these areas may be very inaccessible and there might be some other deficiencies also. In spite of all that, we will have to see that branches are located at least in a radius of 15 KM if not 10 KM. Even if it is 15 KM, it does matter, but within a distance of 15 KM, you have to provide banking services so that those who would like to take advantage of the facilities available in the bank, will be in a position to do so. I am in full agreement that this will have to be done and I do not think we can possibly have any other explanation from the banking sector.

There was another point and I am also aware of it. when a new entrepreneur applies to a bank and to the DIC, the lead bank of the area is also to be present and they make certain recommendations. Invariably, I am given to understand that the bank concerned again starts scrutiny *de novo*.

I have not been able to understand what exactly is the purpose in having this kind of a coordinated committee if the entire thing is going to be done thereafter by the bank concerned. If there are deficiencies in the application or if the bank concerned has any reservation about granting the loan, the representative of the bank can be called; and it is the responsibility of the Lead bank to see that they discuss it threadbare if there are any deficiencies so that the person who has

applied for loan he gets it well in time adequately so that he is able to fully utilise the credit given; if he is not to the extent required and if it is untimely, there is always a possibility of misutilisation of that credit and that creates a problem of default and recovery also. So, it becomes all the more necessary that immediate action has to be taken. The whole concept of the DIC is to have a coordinated action and an immediate decision should be taken; and scrutiny by the bank thereafter about the economic viability of the entire proposal will be violative of the concept of DIC which we have accepted. I have discussed this specially with the Reserve Bank and requested that all the Lead Banks in the country should take this kind of an approach and see that all those who come to the bank do not go back harassed or frustrated. As far as possible, we have to see that these people are given the assistance which they asked for.

I believe Mr. Yadav raised this point. It was only about certain professions for which the banks have norms and they give the credit required to them. If there is a young entrepreneurs who has some idea and if he wants to tell us any enterprise in that area and if the norms are not decided by the Head Office, sometimes it creates a difficulty. Certainly, I would like to go into the details; I would get information from the hon. member and thereafter I would like to discuss it with the bank concerned as to what exactly has been the difficulty. Normally, I don't think that there has been any such proposal wherein the young entrepreneurs have presented proposals for which the norms have not been decided; norms are normally decided. But if the bank is convinced that here is a genuine proposal wherein the economic feasibility is established, there should be no reason as to why he should not be given any assistance which he asked for.

A point was raised about the kind of work culture which is to be introduced specially in the regional rural banks. I was told that there are some officers who, in fact, do not know the local language. I quite see the point that new work culture will have to be

introduced, proper orientation will have to be given. The rural areas in which they are supposed to serve the local conditions should be known to them. The difference between all other Nationalised Banks and the regional rural bank is that in the case of regional rural bank, it is from the local area the staff is being recruited. So, there is no reason as to why he should not be sympathetic with the problems of the local people. Normally, he is supposed to know the local language if he comes from the same area. He will be more sympathetic towards the local people, the Graduates or unemployed people in that area and other who approach the bank. That is why I do not find any reason as to why they should be so. The point is well taken that some kind of training is very essential; they will have to be given training as to, how they should react with those who come to the bank and how they should treat all these people who, in fact, are supposed to be very illiterate people. It is only the well dressed people, who, in fact, get the reception at the bank; and if a poor man were to go, he is even not allowed to go into the bank. This is something which is, in fact, not correct. He has to welcome the person if he is illiterate and try to help him and see the money is being provided for a very valid reason. In fact, it is such person who, in fact, always pays back the money; he will never default. It is only the big people, who take money and do not bother to pay it back. In fact, we will see that proper training is provided and some times even if it is in-service training required after recruitment also, we will provide it; because if a number of new problems were to crop up, there is no reason as to why some kind of a refresher course should not be provided.

There was also a point which was made, and that was about the service conditions of the staff employed in the regional rural banks. In fact, the very concept of the regional rural bank was that the officer who is working there, his emoluments should be comparable with that of any of the State Government officers who are in that area and that will be more in keeping with the kind of a situation with which he has to react. But

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we have specially appointed a tribunal under the Chairmanship of Mr. Justice Obul Reddy who is going into the question of the facilities, all other kinds of conditions which in fact need to be gone into and after we get the report—we hope that within about three to four months it should be possible for this tribunal to send the report to the Government—we will be able to take a final view about it.

SHRI E. AYYAPU REDDY (Kurnool):  
When is Mr. Justice Obul Reddy's Tribunal report expected?

SHRI S.B. CHAVAN: That is what I said. Within about three to four months we expect that the report will be submitted by Mr. Justice Obul Reddy's Tribunal.

Another point was made and that was, the limit of Rs. 15 crores which was on the Reserve Bank of India for advancing the money to the IFC, has been taken away. I think if you were to go through all the dealings of the term lending institutions, no such limit is there on any other term lending institutions. It is only in the case of IFC that this kind of a limitation was there and that becomes a kind of a discriminatory treatment between one term lending institution and the other. This is one reason and another is the credit authorisation scheme itself has now been done away with and that is why it is 11 the more the reason that no such limitation should be there. They should get the information and on the basis of the information they should be able to take whatever action they feel it necessary to act. But to exercise the powers and create conditions by which every bank or term lending institution should have a feeling that unless they get the approval from the Reserve Bank of India they may not possibly go ahead, that kind of a situation needs to be changed and that is why this provision has been introduced.

A point was also made about some of the branches of the nationalised banks abroad, whether any kind of monitoring is

being done by the Reserve Bank of India or by Government. We have looked into the matter and specially after one very wrong thing which happened in London, thereafter the Reserve Bank of India has been specially asked to look into this matter. They are now monitoring and they are trying to rationalise the number of branches that they should have. As a result of this they have been able to close some of the branches in London, some branches in Hongkong and may be some more branches they might be thinking in terms of closing down if the conditions are such which in fact do not warrant having so many branches. It depends on the kind of business that they will be getting.

A point was also made that bank melas are very undesirable and we should give up this practice. I do not know, there seem to be some kind of other factors. So long as the banks scrutinise the proposal and if the proposal is almost complete from all points of view and if the bank *mela* is in the presence of hundreds and thousands of people, if that cheque is being given to that party, I do not think that there can be anything objectionable. On the other hand, that will create a kind of confidence that intermediaries are avoided. No intermediary can possibly take advantage of the ignorance of the people and the person concerned gets the cheque immediately. This will put a stop to all kinds of uncertain activities undertaken by some anti-social elements.

Sir, a point was also made about the lead banks with their headquarters in different areas, one having its head office in Bombay, another having in Calcutta and the third say at Hyderabad or some other area. At distances they are supposed to be the lead banks. If suppose Vijaya Bank happens to be the lead bank in the North Eastern Area, then it would become really very difficult for any of the people to contact the head office and get their proposals approved. I would definitely discuss this issue with the Reserve Bank of India and try to find out as to what exactly are the difficulties. I was trying to find out if there are more than one bank in the State, I was told that it is only one

lead bank in the State. If that is the position, there is no reason as to why such far flung areas should be allotted, nearby banks can possibly be allotted. If the bank is not good enough, then it can merge with any other bank. But so long as the bank exists, I do not find any justification as to why these areas are allotted to some banks, which are at a considerable distance...*(Interruptions)*

SHRI SYED SHAHABUDDIN (Kishanganj): Sir, the multiplicity of banks working within a district falls within the orbit of your observations and I wish that you would try to put a curb on that.

SHRI S.B. CHAVAN: I do not know whether the hon. Member was present when I made the beginning. I did say that this is not the comprehensive Bill that we have brought forward. There are some immediate problems, which the banks are facing. In order to solve those problems, we have brought this Bill. But certainly that point is well taken and we will see, as far as possible, we should try to introduce this element; may not be possible immediately, but we can make a beginning. In the case of NABARD, we have made a beginning. NABARD is specially meant for agricultural credit and refinancing. It is not the credit that is being given by NABARD. It is the District Cooperative Bank or the Apex bank, who gives the money and that is being reimbursed by NABARD. Similar kind of functional activities of different things, if it can be introduced by the banking sector; that is a point which will have to be considered. I cannot possibly at this stage give here any promise or assurance. But certainly I have taken note of it and after discussing with officers concerned, let me see what can be done.

Another point was made about private financing agencies, which are specially started from Kerala, I know. I had been there and there are some blade banks, some peculiar kind of nomenclature. They are called blade banks because they do the work of treating the persons with the blade. In fact, they have been taking the advantage of the ignorance of people. Crores of rupees are

being collected by these people and thereafter they just disappear. When I had been to Cochin, I have specifically requested the State Government. Ultimately this does not come within the purview of the Reserve Bank of India. It comes under the purview of the State Governments. I have requested the State Government. I am going to write to all the Chief Ministers requesting them that the activities of this nature should be put an end to and the ignorance of the people, which is being actually exploited by some sections, we should be able to put a stop to this kind of a situation.

These are the major points which the hon. Members have made...*(Interruptions)*

SHRI INDRAJIT GUPTA (Basirhat): Have you got anything to make about drawing away of potential bank deposits by so many private sector companies? It is like a parallel banking system. You do not mind that. By offering higher rates of interest...*(Interruptions)*

SHRI S.B. CHAVAN: Sir, that is a thing which the Government has allowed. I do not think at this stage, I can possibly say anything. Unless I go through the entire system myself, I do not think it will be possible for me to say anything on that. But so far as my information goes, I do not think it has created any situation of that nature. Ultimately it is, floating of the their own debentures. If the same parties would have approached the banks, the banks would have been required to pay the money to those people so long as the proposal is economically feasible. Instead of coming to the bank if they are independently floating their own debentures, certainly to some extent if adversely affects the deposit mobilisation to be done by the bank. But if the same purpose is being served, I do not know why we should insist on that. This is a point on which unless I go deep into the matter, it will not be possible for me to react. But this is my initial reaction that I am giving.

These were the major points which the hon. Members made. To the extent possible,

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I have trained to clarify the position. Rest of the points I have taken note of and if possible, certainly I would like to discuss with them, with the Reserve Bank and thereafter with the banks concerned. I have been specially requesting my colleague, Shri Faleiro, to go round the country in different areas and hold regional meetings of different bankers where the State Governments are also involved. Personally I am also interested in this matter specially from the point of view of small and medium scale industries because we find that a large number of those units are closed. They are not getting banking facility well in time. So I would like to go in two or three areas. I will call the representatives of the State Government, representatives of the small scale industries, representatives of the Reserve Bank and the local lead bank and other banks which are in that area working. In the presence of everybody concerned, I would like to understand as to what exactly are the difficulties, why is it that in spite of the fact that this is our policy that we would like to encourage the small sector man, he is the man who is being harassed and if he is not given the loan which he requires, then, of course, that is a violation of the Government policy. But at the same time, if the bankers have any difficulties, certainly I would like to understand and try to find a solution for the same so that they are able to help these poor people in the way they have not been doing so far.

Another point made is that two Collectors from Orissa seemed to have written to the Reserve Bank of India or the Government. It is also brought to the notice of my colleague, Shri Faleiro, that officers of the local bank are not cooperating in the implementation of the 20-Point Programme.

SHRI AZIZ QURESHI (Satna): This is there in most of the States.

SHRI S.B. CHAVAN: This is very serious. I do not think their head offices are not cooperating. It is the local officer who seems to be having some kind of non-cooperative

attitude because of his personal views. He is at full liberty to have his personal views. But so long as he works in the bank, he has to follow the policy which has been laid down for him not only from the Bank but also from the Central Government. I do not think that it is open to any officer of the bank to say that it is open to him either to cooperate or non-cooperate. This kind of attitude is a clear violation of the policy which has been laid down by the Government. We will certainly request the banks to take action against such officers who, in fact, are not cooperating with the local officers in the implementation of the 20-Point programme.

SHRI INDRAJIT GUPTA: On two points which I had raised I would to know his reaction. One was the fact that the rights of the small investors are being hurt by the fact that the banks are playing a role in helping to float these bogus companies in which small investors put their money. That should be discouraged and there should be some system by which these banks are properly monitored and checked in this matter. Secondly, about the sick units, there are the people who are deliberately eroding the capital of their companies and making them sick. The total amount of bank capital tied up in those units has gone upto hundreds of cores. Why should the banks continue to finance such people who are not paying anything out of their own pocket for those companies and are taking all the money from the banks and financial institutions?

SHRI S.B. CHAVAN: Sir, about the first point, I can request the Reserve Bank to issue a circular requesting all the banks not to support any proposal from these private people who, in fact, are trying to cheat these people. They collect in the shape of Rs. Five, Rs. ten from the smaller people. Either very high amount of interest is being charged or they just disappear. This is a kind of money-lending business which, in fact, is prevalent in certain areas and they are trying to spread their tentacles in different areas also. That is why it becomes very necessary that the local people should not encourage them. But the banks also should not support any such

proposal. I will discuss this with the Reserve Bank and try to find out.

About the second aspect, it is the DIFR which has been set up in order to see if we can assist the units which have been closed, by having some kind of a coordination and trying to find out from the units as to what is their capacity, whether any viable proposal for their rehabilitation can be undertaken. If any rehabilitation schedule is decided by BIFR, thereafter we cannot possibly say that the bank will not advance the money. Ultimately it is the joint action of all persons concerned. If DIFR have to take the view that the bank has to advance so much money...(Interruptions)

SHRI INDRAJIT GUPTA: In majority of cases DIFR is saying that these units have become non-viable. They should be wound up or liquidated. It is only a few cases where they have recommended some rehabilitation measures.

SHRI C. MADHAV REDDI (Adilabad): Sir, I raised the question of non-official directors being appointed on the Board of banks. You have not mentioned anything about that. Are you going to appoint non-official directors?

SHRI S.B. CHAVAN: Sir, about the first point which the hon. Member Shri Indrajit Gupta has made, that is, about DIFR having thrown the proposal saying that it is totally non-viable, thereafter no bank should advance any money to any such unit. There is no question of any bank advancing any money thereafter. But so long as the DIFR says that here is a rehabilitation package, unless bank has to forego some part of the principal, that is understandable.

The second point is about the non-official directors. This is at the final stage and I can assure the hon. Members that very soon we will appoint these non-official directors on all the banks.

MR. DEPUTY SPEAKER: The question is:

"That the Bill further to amend the Negotiable Instruments Act, 1881, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Industrial Development Bank of India Act, 1964, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1976, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, the Export-Import Bank of India Act, 1981, the National Bank for Agriculture and Rural Development Act, 1981 and the Industrial Reconstruction Bank of India Act, 1984, be taken into consideration.

*The motion was adopted*

MR. DEPUTY-SPEAKER: The House will now take up clause-by-clause consideration of the Bill.

## Clause 2

*(Amendment of section 80)*

### *Amendments to Negotiable Instruments Act.*

SHRI C. MADHAV REDDI: Sir, I beg to move:

Page 2, line 5,

for "eighteen per centum" substitute—

"twelve per centum" (5)

Sir, this amendment relates to the reduction of the interest rate which is now being enhanced to eighteen per cent from six per cent. This is a very steep rise from six per cent to eighteen per cent. Particularly when we are making this offence a penal offence, I do not think there is any necessity to raise the interest rate to eighteen per cent.



SHRI S.B. CHAVAN: Sir, I am sorry, I cannot accept the proposal because of the fact that the prevalent market rate is eighteen per cent. I do not think for any defaulting person we should try to give any concessional rate. Actually, this is not the penal rate at all. In fact, if penal rate is charged, they will be within their right to charge the penal rate. But this is the market rate which is prevalent and that is why he will have to pay eighteen per cent. We cannot possibly agree for any kind of concessional charge being allowed to such persons.

MR. DEPUTY SPEAKER: I shall now put amendment No.5 to clause 2, moved by Shri C. Madhav Reddi, to the vote of the House.

*Amendment No. 5 was put and negatived*

MR. DEPUTY SPEAKER: The question is:

"That Clause 2 stand part of the Bill"

*The motion was adopted.*

*Clause 2 was added to the Bill*

### Clause 3

*(Amendment of Section 17)*

*Amendment to Negotiable Instruments Act*

SHRI C. MADHAV REDDI: Sir, I beg to move:

Page 2, line 8,

for "eighteen per centum" substitute

"twelve per centum" (6)

MR. DEPUTY SPEAKER: I shall now put amendment No.6 to clause 3, moved by Shri C. Madhav Reddi, to the vote of the House.

*Amendment No.6 was put and negatived*

MR. DEPUTY SPEAKER: The question is:

"That clause 3 stand part of the Bill."

*The motion was adopted.*

*Clause 3 was added to the Bill.*

### Clause 4

*(Insertion of New Chapter XVII )*

*Amendment to Negotiate Instruments Act.*

MR. DEPUTY SPEAKER: Now, we go to Clause 4. Amendments 1 and 2 are in the name of Shri Haroobhai Mehta. Mr. Haroobhai Mehta are you moving?

SHRI HAROOBHAI MEHTA (Ahmedabad): Yes, I am moving.

MR. DEPUTY SPEAKER: Amendment No. 7,8,9,10 and 11 are in the name of Shri C. Madhav Reddi. Mr, Madhav Reddy, are you moving your amendments?

SHRI C. MADHAV REDDY: Yes, I am moving my amendments.

SHRI HAROOBHAI MEHTA: I beg to move:

Page 2, lines 15 and 16.

for "138. Where any cheque drawn by a person on an account maintained"

*Substitute "138. Where on account of any deliberate and dishonest omission or commission on the part of any person, any cheque drawn by him on an account maintained." (1)*

Page 3, —

*omit lines 5 to 8 (2)*

Sir, I have carefully listened to the reply of the Minister for whom I have profound respect. Now, his reply has convinced me

and impressed me except on the question of *bouncing* cheques. In fact, several points have been clarified. But on the question of dishonoured cheque and converting the civil liability into criminal liability, with due respect, it is difficult for me to persuade myself to agree with him. In our country, we cannot obtain the situation that is obtaining in foreign countries especially in the matter of banking system. There the people having the accounts are literate and also there is awareness among the people there. Now, in our country, we have been able to draw even illiterate and semi-illiterates into the fold of banking system. Sometimes the people are put to harassment and they are asked to part with post-dated cheques and they are not able to foresee what would happen within the next few days. Even if there is amount at their credit, it is required to be spent on some other necessities. Even the literate people sometimes face such a situation. Each one of them does not have an accountant at their disposal. So, sometimes on account of honest mistakes, the difficulty arises. There may not be any intention on their part to deceive the possible payee but the check bounces. This can not be a criminal offence. My respectful submission is that the state should not act as a handmaid of the creditors. The law is already loaded in favour of the creditors. Why make it more loaded in favour of creditors? Therefore, I request the hon. Minister to agree to my submission and accept my amendments.

SHRI C. MADHAV REDDI: I beg to move:

Page 2, line 22, —

after "person" insert —

"if it is proved that he had full knowledge that the amount of money standing to the credit of his account was insufficient to honour the cheque or that he deliberately failed to arrange with that Bank sufficient amount to cover the cheque drawn by him" (7)

Page 2, line 25, —

for "one year" substitute "one month" (8)

Page 2, lines 25 and 26, —

for "twice the amount of the cheque", substitute "rupees five hundred" (9)

Page 3, line 23, —

for "director", substitute —

"working or executive director," (10)

Page 3, line 24, - -

for "director substitute —

"working or executive director," (11)

Sir, I very carefully listened to the reply of the hon. Minister and I am not convinced that the safeguards provided against the harassment of a person who issues a cheque are enough and I feel that this type of conversion of a civil liability into criminal offence is wrong and further safeguards should be provided in this. My amendments provide safeguards. If it is wilfully and knowingly that he has no amount in the bank to cover the cheque and if a cheque is issued, then only it would be construed as an offence. Otherwise not. The second amendment is in the same clause, that is, all the Directors of the company are being made liable. All the directors of the company including the Government Directors will be liable and they could be punished. That is wrong. Only executive Directors, whole-time directors of the company or the working directors of the company should be made liable. These are my two amendments.

SHRI S. B. CHAVAN: Sir, about the first part of the question, I have given a very elaborate explanation as to why it is necessary to introduce this kind of a provision in this Bill. In fact, it is not the intention of the Government to harass any person who is

[Sh. S.B. Chavan]

honest. It can be presented within six months. But if you have given it to the person, if even granting that after drawing the cheque in favour of a certain person, he presents that cheque, say in about a week's time and after presenting it he finds that there is no money in his account, he gives a notice. After this notice is given, there are 15 days provided. Thereafter, after allowing this time also stating that 'there is no money in your account', you can't thereafter say anything. He is informed that 'there is no money in your account' and he has drawn the cheque. If the relations of the two are such that in fact the other man also understands that honestly he wanted to pay the money but somehow this mistake happened, thereafter it is for that person to take a lenient view and not to lodge a complaint and start the prosecution. After the cause of action arises, thereafter it is one month. After allowing such a long time also, still if you are going to plead that he was not aware that he did not have the money in the bank, I do not think that it is justified.

Sir, another point which was made by hon. Member, Shri Madhav Reddiji was: 'Why is it that you are making all these directors also responsible?' First of all, the provision is not that way. Actually, if you have to go through it, it is not every Director, ultimately it will have to be established in the court of law that the Director concerned is responsible. It is not that in every case a Director is going to be responsible. Ultimately it is the collective responsibility of all the Directors. Directors are not meant to just go and sign the paper and go away. If you are a Director and if you have the responsibility, you will sign the paper after discharging your responsibility fully. If you are not bothering to find out as to what exactly you are passing, you are just signing any register and just running away. There of course you cannot escape the responsibility. You are a Director and all the Directors are supposed to act collectively for taking a decision. If you hold any particular point of view, you should be present in that Meeting. Thereafter also,

after the prosecution is being launched, ultimately the court has to be convinced that 'here is the Director, instead of the Executive Director here is a Director who in fact has been responsible for forcing the Board of Directors to take that kind of a decision.' I don't think he can escape the responsibility of being prosecuted. So, it is only in such cases, very exceptional cases, where the Directors must have been responsible and the court is also convinced that he has a hand in taking that kind of a decision and that is why, justly he has to be prosecuted in the matter and thereafter the court is bound to take the view whether he is or he is not, and that is why I won't be in a position to accept the amendment given by Mr. Madhav Reddiji. With this explanation, I will request him not to press for his amendments. If he is to press, than I will request the House to reject the same.

SHRI HAROOBHAI MEHTA: Since the Government is not ready to accept my amendments, I seek leave of the House to withdraw my amendments.

MR. DEPUTY SPEAKER: Is it the pleasure of the House that the amendments moved by Shri Haroobhai Mehta be withdrawn?

SOME HON. MEMBERS: Yes, yes.

*Amendments Nos. 1 and 2 were, by leave, withdrawn.*

SHRI C. MADHAV REDDI: Sir, I am not convinced of his reply. So, I am not withdrawing my amendments.

MR. DEPUTY SPEAKER: So, I shall put amendments Nos. 7, 8, 9, 10 and 11 moved by Shri Madhav Reddi to the vote of the House.

*Amendments Nos. 7 to 11 were put and negated.*

MR. DEPUTY SPEAKER: There are no amendments to clauses 5 to 8. Therefore, I shall put clauses 4 to 8 of the Bill to the vote of the House.

The question is:

"That clauses 4 to 8 stand part of the Bill."

*The motion was adopted.*

*Clauses 4 to 8 were added to the Bill.*

**Clause 9**

*(Amendment of Section 30)*

*(Amendment of Banking Regulation Acts)*

SHRI C. MADHAV REDDI: Sir, I move:

Page 5, (i) line 6, — *omit* "either"

(ii) lines 8 and 9, —

*omit* "or direct the auditor of the banking company himself" (12)

Sir, this is relating to the amendment to the Reserve Bank of India Act. Under the Reserve Bank of India Act, today the Reserve Bank cannot order a special audit of a particular banking company. Under this amendment, you are giving powers to the Reserve Bank of India to take up a special audit of the accounts of a particular bank if they received any complaints. Having done so, you are asking the Reserve Bank of India to appoint the auditor of the same banking institution. Why should you do that? If there are any complaints, some other auditor has to be appointed. Now you say that either the bank auditor or any other auditor will be appointed. So, I want "either", "or" should be removed. Only the auditor who is not the auditor of the bank should be appointed to take up the special audit.

SHRI S.B. CHAVAN: The Reserve Bank of India have been empowered to carry on special audit of certain banks where they have certain information that the auditor of the same bank has not done his audit properly. So, the choice is there to the Reserve Bank of India to carry on the special audit by

the same auditor or if they want any other auditor also, they can do the same. I do not think, there is any bar in appointing any other auditor. The Reserve Bank have been fully empowered to appoint any other auditor also.

MR. DEPUTY-SPEAKER: Now, I put the amendment moved by Shri C. Madhav Reddi to vote of the House.

*Amendment No. 12 was put and negatived*

MR. DEPUTY-SPEAKER: There is no amendment to clauses 10 to 12. So, I put clauses 9 to 12 for adoption.

The question is:

"That clauses 9 to 12 stand part of the Bill."

*The motion was adopted*

*Clauses 9 to 12 were added to the Bill.*

**Clause 13**

*(Amendment of Section 21A) (Amendment of State Bank of India Act)*

MR. DEPUTY-SPEAKER: Now, we go to clause 13. Shri Madhav Reddi.

SHRI C. MADHAV REDDI: I beg to move:

Page 6, line 25,—

*omit* "and thereafter until his successor has been duly nominated" (13)

This is regarding appointment of Directors. The term is being uniformly fixed for 3 years. After that he will continue till his successor is appointed. If the successor is never appointed for six years, he will continue for six years. Why should you do that? Once the term is fixed, by the end of the term, the Director should retire. There should be no scope for continuance of the Director for six years which is the maximum period.

SHRI S.B. CHAVAN: The purpose of the amendment moved by hon. Shri Madhav Reddiji, I am able to understand. I can assure the hon. Member that before the expiry of his three-year term, where the Government has to take a decision—because we can give him two terms, and at best he can be appointed for maximum six years. After 6 years, I do not think that he is eligible for being re-appointed. But things might happen that after the first term was over, fresh appointment was not made, and he had not also been appointed again for another term of three years. If such a contingency were to arise, in fact, we will try to see that such a situation does not arise and we are able to appoint Directors well in time so that such a thing does not take place.

PROF. MADHU DANDAVATE (Rajapur): It is like re-promulgation of ordinance.

MR. DEPUTY-SPEAKER: Now, I put the amendment No. 13 moved by Shri C Madhav Reddi to vote of the House.

*Amendment No. 13 was put and negatived.*

MR. DEPUTY-SPEAKER: There is no amendment to clauses 14 to 38.

Therefore, I put clauses 13-38 for adoption.

The question is:

"That clauses 13 to 38 stand part of the Bill."

*The motion was adopted*

*Clauses 13 to 38 were added to the Bill*

#### Clause 39

(Amendment of Section 6) (Export-Import Bank of India Act)

MR. DEPUTY-SPEAKER: Now, we go to clause 39. Shri Madhav Reddi.

SHRI C. MADHAV REDDI: I beg to move:

Page 13, lines 15 and 16,—

*omit* "and thereafter until his successor enters upon office," (14)

MR. DEPUTY-SPEAKER: I put amendment No. 14 moved by Shri Madhav Reddi to vote of the House.

*Amendment No. 14 was put and negatived*

MR. DEPUTY-SPEAKER: There is no amendment to clauses 40 to 50.

Therefore, I put together clauses 39-50 for adoption.

The question is:

"That clauses 39 to 50 stand part of the Bill".

*The motion was adopted*

*Clauses 39 to 50 were added to the Bill*

MR. DEPUTY-SPEAKER: The question is:

"That clause 1, Enacting Formula and the Title stand part of the Bill."

*The motion was adopted*

*Clause 1, Enacting Formula and the Title were added to the Bill*

MR. DEPUTY-SPEAKER: The Ministry may move "That the Bill be passed".

SHRI S.B. CHAVAN: I beg to move:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill be passed".  
Shri E. Ayyapu Reddy.

**SHRI E. AYYAPU REDDY (Kurnool):** Mr. Deputy Speaker, yesterday the hon. Minister himself said that this is not a comprehensive Bill embracing all aspects of banking in India and that this Bill has been brought forward for the purpose of serving the 12 objectives mentioned in the Statement of Objects.

We have been finding that the banking system in India, in spite of nationalisation, has not been serving the social purposes for which it was intended and the present banking system somehow or the other has begun to favour those persons who are capable of looking after themselves. The private sector in India has undoubtedly exploited the present banking system and the financial institutions. In fact, 90% of the investment of the private industry, in some cases, is from public financial institutions and mostly from the banks. Public sector, unfortunately, is a private enterprise and private estate of all those persons who are in charge of it and who are running it. Private sector unfortunately is run with public funds and public finances. That is why, there has been an opinion that there must be a Parliamentary Committee to supervise or to exercise some powers of control over the entire banking system. Now the nationalised banking does not come under the purview of Parliamentary control though there is control by the Union Government. None of these important commercial banks come under the jurisdiction of the Public Undertakings Committee. The Industrial Development Bank of India and certain other financial institutions come under the purview of the Public Undertakings Committee but none of these commercial banks come under the purview of the Public Undertakings Committee. Therefore, it is high time that we must try to evolve a system of making these commercial banks accountable to Parliament. In what form it is going to be done, it is to be thought over. But, it is high time that the accountability of the commercial nationalised banks to Parliament, is made a reality. There are a number of doubts expressed with regard to the soundness of most of the banks because the control and audit over this banking system, is

not coming under the supervision of any public authority. Probably, the Reserve Bank of India, under the Banking Regulation Act has to do that. Naturally, these balance-sheets are so prepared that it is very difficult for defects to be pointed out. Otherwise, how can we explain the phenomenon of more than a lakh of industries going sick and where admittedly about Rs. 5,000 crores of the commercial banks are involved in these sick industries and no action is taken for the recovery of these funds?

Sir, in this connection I may also submit that it is essential to evolve a code of conduct for non-official Directors as well as Official Directors of all these commercial banks. No code of conduct is there now. Most of the non-official Directors are making use of this position to finance industries which are their clients or which are normally done to some of their friends.

**13.00 hrs.**

**MR. DEPUTY-SPEAKER:** Please conclude.

**SHRI E. AYYAPU REDDY:** There is plenty of time. You have saved about half-an-hour or so in the Question Hour. I now come to my point. The most important revolutionary change that has been brought about is Clause 4 with regard to bouncing of cheques. In the Statement of Objects and Reasons, you have stated that in order to make the cheques more acceptable, this change has been sought. Whether you want respectability or acceptability to the cheques, that is quite a welcome objective. I am in agreement with this objective. But, unfortunately, it does not take into consideration the situation and the commercial business tactics which are being adopted.

Breach of Contract has been made punishable now, for the first time, under this provision. Breach of contract is also punishable under the Indian Penal Code, if it amounts to cheating, under Section 420 or if it amounts to criminal breach of trust. Therefore, during the entire period when the Penal

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Code was in operation where breach of contract was brought within the ingredients of a criminal breach of trust or cheating, they could be prosecuted and they were made punishable. You have now made simple inability to fulfil a promise punishable under the provisions of this Act without reference to any *mensrea*. This will lead to a number of difficulties. In the first instance, as a practising lawyer, I would advise a creditor client of mine to take a cheque from the data so that there is a threat of a criminal prosecution hanging over it. We know usurious money-lenders deduct the interest even in advance and take the pronote for the amount. Hereafter, these money-lenders will extract cheques. Every contractual liability hereafter will be covered by a cheque so that the creditor is at an advantage and will be in a position to threaten with criminal action also. I can give a number of instances...

MR. DEPUTY-SPEAKER: Now you have to conclude. I cannot allow further. You have to be very brief in Third Reading.

*(Interruptions)*

SHRI E. AYYAPU REDDY: If I am speaking anything irrelevant, you can hold me up.

MR. DEPUTY-SPEAKER: You have to be very brief in the Third Reading stage. I cannot allow a lengthy speech.

*(Interruptions)*

SHRI E. AYYAPU REDDY: Sir, I am also very brief.

MR. DEPUTY-SPEAKER: I have allowed more than five minutes.

*(Interruptions)*

SHRI E. AYYAPU REDDY: I cannot sing a Mantra or show *Mangalaharathi*... *(Interruptions)* Third Reading is not a *Man-*

*galaharathi*. I am speaking on the general impact of the Bill.

MR. DEPUTY-SPEAKER: You cannot speak on the Clauses. You have to speak on the Bill.

*(Interruptions)*

SHRI C. MADHAV REDDI: Sir, he is speaking to explain why he is rejecting the Bill. Let him speak. *(Interruptions)*

MR. DEPUTY-SPEAKER: Let him speak. But I cannot give him a long time.

*(Interruptions)*

SHRI E. AYYAPU REDDY: Deputy-Speaker is not a time-machine there. Please listen to my speech. *(Interruptions)*

MR. DEPUTY-SPEAKER: I cannot allow. Nothing goes on record. Mr. Minister, you can reply.

*(Interruptions)\**

SHRI E. AYYAPU REDDY: Sir, you can hold me up, if I am speaking anything irrelevant. Let me make my point clear. *(Interruptions)*

MR. DEPUTY-SPEAKER: You cannot accuse the Chair. You must know that. You have no right to accuse the Chair.

*(Interruptions)*

MR. DEPUTY-SPEAKER: I have the right to limit your speech.

*(Interruptions)*

SHRI E. AYYAPU REDDY: I am an elected Member...

MR. DEPUTY-SPEAKER: That is different. When I am giving you time, you have to stick to it. Time factor has to be taken into consideration.

*(Interruptions)*

SHRI E. AYYAPU REDDY: I am not speaking anything irrelevant. I am making out my point. You cannot stop me. Time is not a factor. *(Interruptions)*

MR. DEPUTY-SPEAKER: I can stop you.

SHRI E. AYYAPU REDDY: You can stop me if I am speaking irrelevant, if anybody is objecting to it.

MR. DEPUTY-SPEAKER: I have to regulate the time. You have to be within your time.

SHRI E. AYYAPU REDDY: I am within any time. You have not specified any time-limit.

MR. DEPUTY-SPEAKER: I have told you that I am giving five minutes. But you have already taken 7-8 minutes.

*(Interruptions)*

SHRI E. AYYAPU REDDY: I am making my last point. I would tell how it is going to lead to paradoxes and absurdities. A bank which lends the amount to a person is itself not in a position to institute penal action against him, if he fails to pay the amount. Suppose an industrial entrepreneur takes money and he is not able to pay it are you entitled to institute penal action against him. Certainly not. Penal action against a person who simply failed to pay a liability is not attracted. Therefore, this giving third parties power of penal action will lead to many abuses because third parties are likely to make use of it and convert every contractual liability into a cheque so that he is armed with the penal powers. So the various aspects of this have yet to be studied and probably you yourself may have to come forward with an amendment. Suppose if for an unknown reason the amount is attached by some other creditor or by another bank and the cheque bounces should he be made liable for penal action? Some of these aspects

have to be thought out. I hope a comprehensive Bill will be brought forward taking into consideration the suggestions made by us.

THE MINISTER OF FINANCE (SHRI S.B. CHAVAN): Sir, a number of issues have been pointed out but I will merely say that ours is a mixed economy where both private and public sectors have a right to approach the banks and request for credit. I do not think there is anything wrong but at the same time after nationalisation it becomes our responsibility to see that socio-economic objectives that the Government have are carried out by the banks concerned.

If I give the information for the priority sectors about 40 per cent out of the total lending was given. In 1985 it was 41.3 per cent. In 1986 it was 42 per cent. In 1987 it was 44 per cent and in 1988 it was 45.8 per cent. I have also figures for advances to the weaker sections, etc. According to the information which has been made available to me if this is the percentage in which the priority sectors have been advanced the credit by the banks concerned then we cannot possibly grudge by saying that the socio-economic objectives have not been fulfilled by the banking sector.

The second point was why is it that bigger industrial houses are getting the advance from the banks? So long as we have a mixed economy where both the public and the private sectors are entitled to approach the banks I do not think we will be within our right to question as to why money has been given to this man and not to the other. I can understand if the project is unviable and still the bank is trying to help then, I think, it is a wrong thing.

Another point was about the non-official directors appointed on the banks. In fact, there are very clear guidelines as to what they are supposed to do and not to do. It is not that guidance has not been given. Guidelines are there and if any of such instances are brought to the notice of the Government that they are trying to utilise their position in the bank as director for some exterior motive



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then certainly the Government will try to interfere in the matter but so long as they are discharging the functions according to law I do not think we can take objection to this.

As regards the last point I did explain the position yesterday and also today. I do not think there is anything wrong in making bouncing of a cheque a penal offence. Ultimately it is for the court to take the decision and if the court is not satisfied I do not think in spite of the provision of the Act we can possibly do anything in the matter.

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

*The motion was adopted*

MR. DEPUTY SPEAKER: Now we adjourn for Lunch to meet at 1410 hours.

13.09 hrs.

*The Lok Sabha adjourned for Lunch till ten minutes past Fourteen of the clock.*

*The Lok Sabha re-assembled after Lunch at sixteen minutes past Fourteen of the Clock*

[MR. DEPUTY SPEAKER *in the Chair*]

SUPPLEMENTARY DEMANDS FOR GRANTS (TAMIL NADU), 1988-89

[*English*]

MR. DEPUTY SPEAKER: We will now take up Agenda Item No. 13, discussion and voting on the Supplementary Demands for Grants in respect of the Budget for the State of Tamil Nadu for 1988-89.

Motion moved:

"That the Supplementary sums not exceeding the amounts on Revenue Account and Capital Account shown in the third column of the Order Paper, be granted to the President out of the Consolidated Fund of the State of Tamil Nadu to defray the charges that will come in course of payment during the financial year ending the 31st day of March, 1989 in respect of heads of demands entered in the second column thereof against:—

Demand Nos. 4, 9, 11, 13, 15, 17 to 21, 23, 26, 28 to 31, 35 to 39, 41 to 43, 47 to 49, 51 to 53, 55 56, 58 and 59."

Shri N.V.N. Somu.

*Supplementary Demands for Grants (Tamil Nadu) 1988-89 submitted to the Vote of the Lok Sabha*

No. of Demand	Name of Demand	Amount of Demand for Grant submitted to the Vote of the House	
		Revenue Rs.	Capital Rs.
1	2	3	4
4.	General Sales Tax and Other Taxes and Duties-Administration.	23,74,000	—
9.	Head of State, Ministers and Headquarters staff	7,24,000	—